



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105-3901

MAR 07 2007

David L. Saliba  
Fossil Plant Manager  
APS Four Corners Power Plant  
Mail Station 4900  
PO Box 355  
Fruitland, NM 87416-0355

Dear Mr. Saliba:

We received your letter dated November 29, 2006, requesting that EPA make a determination on whether a Comprehensive Demonstration Study (CDS) will be required for the APS Four Corners Power Plant under the Clean Water Act section 316(b) Phase II rule and presenting APS' position that the plant does not fall under the Phase II rule. As you may be aware, the Second Circuit Court of Appeals recently issued a decision regarding the Phase II rule. Riverkeeper v. EPA, 2007 U.S. App. LEXIS 1642 (January 25, 2007). EPA is assessing next steps. We are not prepared to provide a determination regarding which facilities must submit the CDS at this time, but we will keep you informed of important developments.

If you have questions concerning this letter, please contact me at (415) 972-3240 or Nancy Yoshikawa at (415) 972-3535.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Douglas E. Eberhardt".

Douglas E. Eberhardt  
Manager, CWA Standards and Permits Office

cc: Carl Woolfolk, APS Four Corners